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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,716

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Peter Schuller

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1419

30678

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05/30/2008

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EXAMINER

HOLMES, REX R

ART UNIT

PAPER NUMBER

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,716	<b>Applicant(s)</b> SCHULLER, PETER	
	<b>Examiner</b> REX HOLMES	<b>Art Unit</b> 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 24-26 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-8, 10-14, 24-26 and 29 is/are rejected.
- 7) ☐ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8, 10-11, 13-14, 24-26 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Diaz (U.S. Pat. 5,824,026).

3. Regarding claim 1, Diaz discloses a lead body with insulating material (17, 44), multiple layers of conductive elements (34, 42, 46) that extend the full length of the lead from one end to the other (Fig. 4).

4. Regarding claim 2, Diaz discloses that the conductors are arranged in a helically wound arrangement (Fig. 4).

5. Regarding claims 3-5, Diaz disclose that the conductors extend from one end to the other and are the same length to the end points (Figs. 1 and 4).

6. Regarding claims 6-8 and 29, Diaz discloses that the conductors are wound clockwise for a length and anti-clockwise for the same length (Fig. 4).

7. Regarding claims 10-11, Diaz discloses that the conductors are wound and twisted all of the way down the length of the body. It is further noted that the conductors

are twisted 180 degrees at various portions of the body. It is further noted that one of the portions is directly at the mid-point of the lead (Figs. 1-2 and 4).

8. Regarding claims 13 and 24-25, the number of conductive elements varies per layer (Fig. 5).

9. Regarding claim 14, Diaz discloses that the conductors can be made of platinum (Col. 5, ll. 21-22).

10. Regarding claim 26, Diaz discloses that the conductors are constant with regards to its neighbors over the length of the lead (Figs. 4-5).

11. Claims 1-4, 10-12, 14 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Wessman et al. (U.S. Pat. 7,149,585 hereinafter "Wessman").

12. Regarding claim 1, Wessman discloses a lead with a body of insulating material (18, 17, 14), a conductive element (26, 36) that is comprised of a plurality of layers (Fig. 2).

13. Regarding claim 2, Wessman discloses that the conductors are arranged in a helically wound arrangement (Fig. 4B).

14. Regarding claims 3-4, Wessman discloses that the conducting lead extends from a first end to a second end and that the lengths of the conductors are substantially the same (Fig. 4B).

15. Regarding claims 10-11, Wessman discloses that the conductors are wound and twisted all of the way down the length of the body. It is further noted that the conductors are twisted 180 degrees at various portions of the body. It is further noted that one of the portions is directly at the mid-point of the lead (Figs. 1, 4B and 4C).

16. Regarding claim 12, Wessman discloses that each layer of conductors contains the same number of conductors (Fig. 2).

17. Regarding claim 14, Wessman discloses that the conductors are platinum (Col. 3, ll. 52-54).

18. Regarding claim 26, Wessman discloses a lead with a body of insulating material (18, 17, 14), a conductive element (26, 36) that is comprised of a plurality of layers in a helically wound arrangement (Figs. 2, 4B), with the conductors being constant with regards to its neighbors over the length of the lead (Figs. 2, 4B).

#### ***Allowable Subject Matter***

19. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

20. Applicant's arguments filed 1/30/08 have been fully considered but they are not persuasive. Applicant argues that neither Diaz nor Wessman disclose a plurality of layers of conductors that are identifiable at the second end. The Examiner respectfully disagrees. Both Diaz and Wessman disclose multilayer leads that have conductors that are wound around a insulative body. The conductors in both leads run from a first end to a second end. Since the conductors run from one end to the other they are capable of being identified at the second end. Further the conductors are connected to electrodes at the second end and a control device at the first end thus inherently showing that the conductors are identified at each end.

***Conclusion***

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REX HOLMES whose telephone number is (571)272-8827. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./  
Examiner, Art Unit 3762  
/Angela D Sykes/

Supervisory Patent Examiner, Art Unit 3762